

This Opinion is Not a
Precedent of the TTAB

Mailed: April 6, 2026

UNITED STATES PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board

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In re Halo Machine

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Serial No. 98672491

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Dennis Mitchell Landrum of Halo Machine, pro se.

Edward Fennessy, Trademark Examining Attorney, Law Office 114,
Nicole Nguyen, Managing Attorney.

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Before Larkin, Allard, and Stanley,
Administrative Trademark Judges.

Opinion by Stanley, Administrative Trademark Judge:

Halo Machine (“Applicant”) seeks to register on the Principal Register the standard-character mark HALO MACHINE for the following services, as amended:

3D printing of firearm display stands and wristwatch display stands for others; 3D printing services of firearm display stands and wristwatch display stands for others; Additive manufacturing of firearm display stands and wristwatch display stands for others; Machine shop services, namely, machining parts for others; Custom 3D printing of firearm display stands and wristwatch display stands; Custom 3D printing of firearm display stands and wristwatch display stands for others; Custom additive manufacturing of firearm display stands and wristwatch display stands; Custom additive manufacturing of firearm

display stands and wristwatch display stands for others, in International Class 40.¹

The Trademark Examining Attorney refused registration under Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d), on the ground that Applicant's mark, when used in connection with the identified services, so resembles the registered standard-character mark HALO for the services listed below, that it is likely to cause confusion, to cause mistake, or to deceive:

Manufacture of general product lines in the field of automotive, aerospace, medical devices, and mechanical components to the order and specification of others; Manufacturing services for others in the field of automotive, aerospace, medical devices, plating, and coating parts; Additive manufacturing for others; Additive manufacturing of automotive, aerospace, medical devices, and mechanical components for others; Biomanufacturing for others, namely, manufacturing of surgical implants using biological organisms in the manufacturing process; Custom manufacturing of doors; Custom manufacturing of prosthetics; Custom additive manufacturing; Custom additive manufacturing for others; Custom additive manufacturing of automotive, aerospace, medical devices, and mechanical components; Custom aircraft manufacturing; Custom airplane manufacturing; Research in the field of manufacturing processes, in International Class 40.²

¹ Application Serial No. 98672491 was filed on July 29, 2024, under Section 1(a) of the Trademark Act, 15 U.S.C. § 1051(a), alleging November 30, 2019 as the date of first use anywhere and first use in commerce.

² Registration No. 6611107 issued on January 11, 2022 on the Principal Register from a Section 1(a) application alleging August 15, 2020 as the date of first use anywhere and first use in commerce. The cited registration is owned by TetraCells Inc. ("Registrant").

The Examining Attorney also refused registration of Applicant's mark under Section 2(e)(1) of the Trademark Act, 15 U.S.C. § 1052(e)(1), on the ground that Applicant's mark is merely descriptive of the identified services.

When the refusals were made final, Applicant requested reconsideration. After the Examining Attorney denied the request for reconsideration, Applicant appealed. The case is briefed and ready for decision.

For the reasons stated below, we affirm the refusal under Section 2(d) and do not reach the Section 2(e)(1) refusal.³

I. Evidentiary Issues

The Examining Attorney asserts that “[t]he first issue on appeal is whether the applicant's third-party registrations are properly entered into the evidentiary record.”⁴ In its response to the Examining Attorney's February 6, 2025 Non-Final Office Action, Applicant identified a number of third-party registrations by application serial number.⁵ In the Final Office Action, the Examining Attorney advised Applicant, *inter alia*, that (1) “the mere submission of a list of registrations ... does not make such registrations part of the record[,]” (2) “[t]o make third-party registrations part of the record, an applicant must submit copies of the registrations, or the complete electronic equivalent from the USPTO's automated systems, prior to

³ Citations to the prosecution file are to the USPTO's Trademark Status & Document Retrieval (“TSDR”) system in .pdf format. Citations to the appeal record are to TTABVue, the Board's online docketing system.

⁴ Examining Attorney's Br., 10 TTABVue 1.

⁵ April 8, 2025 Response to Non-Final Office Action, TSDR at 7, 11 (identifying Serial Nos. 88113570, 88220812, 88220892, 87300822, 87657722, 97305386, 87886670, 98231663).

appeal[.]” and (3) as submitted, the registrations would not be considered.⁶ In its Request for Reconsideration, Applicant relied upon three third-party registrations to contend that “[t]he USPTO has ... already recognized that ‘HALO’ can coexist across multiple industries within Class 040, even in the context of manufacturing services.”⁷ Applicant submitted screenshots of the USPTO’s Trademark Search summaries for the three registrations, showing, inter alia, the mark, serial number, registration number, goods and services, filing date, registration date, owner, status, and date created.⁸ In its brief, Applicant relies on these three registrations.⁹

Because Applicant submitted the electronic equivalent of the certificates of registration with its Request for Reconsideration, these three third-party registrations are properly in the record. These are the only third-party registrations upon which Applicant relies in its brief, and we have considered them. To the extent the Examining Attorney objects to our consideration of these registrations, the objection is overruled.

II. Likelihood of Confusion

Section 2(d) of the Trademark Act prohibits registration of a mark that so resembles a registered mark as to be likely, when used on or in connection with the goods or services of the applicant, to cause confusion, mistake, or deception. 15 U.S.C.

⁶ June 5, 2025 Final Office Action, TSDR at 7 (citations omitted); *see also id.* at 10 (“[L]ike the other registrations submitted by the applicant, these registrations are not properly made of record. Accordingly, these registrations will not be considered.”).

⁷ June 12, 2025 Request for Reconsideration, TSDR at 8.

⁸ *Id.* at 19-20.

⁹ Applicant’s Br., 8 TTABVUE 10-11.

§ 1052(d). *See also In re Charger Ventures LLC*, 64 F.4th 1375, 1379 (Fed. Cir. 2023). Our determination under Section 2(d) is based on an analysis of all of the probative evidence of record bearing on a likelihood of confusion. *In re E. I. DuPont de Nemours & Co.*, 476 F.2d 1357, 1361 (CCPA 1973) (“*DuPont*”); *see also In re Majestic Distilling Co.*, 315 F.3d 1311, 1315 (Fed. Cir. 2003).

In any likelihood of confusion analysis, different *DuPont* factors may play a dominant role and some factors may not be relevant. *Naterra Int’l, Inc. v. Bensalem*, 92 F.4th 1113, 1116 (Fed. Cir. 2024) (quoting *Tiger Lily Ventures Ltd. v. Barclays Cap. Inc.*, 35 F.4th 1352, 1362 (Fed. Cir. 2022)). In addition, varying weight may be assigned to each factor depending on the evidence presented, and “any one of the factors may control a particular case.” *Id.*; *see also Charger Ventures*, 64 F.4th at 1381. Although we consider each *DuPont* factor for which there is evidence and argument, *In re Guild Mortg. Co.*, 912 F.3d 1376, 1379 (Fed. Cir. 2019), two key considerations are the similarities between the marks and the similarities between the services. *In re i.am.symbolic, llc*, 866 F.3d 1315, 1322 (Fed. Cir. 2017) (quoting *Herbko Int’l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1164-65 (Fed. Cir. 2002)). These factors, and others, are discussed below.

A. The Services and Trade Channels

We begin our analysis with the second *DuPont* factor, which considers the “similarity or dissimilarity and nature of the goods or services as described in an application or registration,” and the third *DuPont* factor, which considers “[t]he similarity or dissimilarity of established, likely-to-continue trade channels.” *In re*

Detroit Athletic Co., 903 F.3d 1297, 1306, 1308 (Fed. Cir. 2018) (quoting *DuPont*, 476 F.2d at 1361). It is “not necessary that the products [or services] be similar or even competitive to support a finding of a likelihood of confusion.” *Coach Servs. v. Triumph Learning LLC*, 668 F.3d 1356, 1369 (Fed. Cir. 2012) (quoting *7-Eleven, Inc. v. Wechsler*, No. 91117739, 2007 WL 1431084, at *6 (TTAB 2007)). “[L]ikelihood of confusion can be found ‘if the respective products [or services] are related in some manner and/or if the circumstances surrounding their marketing are such that they could give rise to the mistaken belief that they emanate from the same source.’” *Id.* “[I]t is sufficient for a finding of likelihood of confusion if relatedness is established for any item encompassed by the identification of goods [or services] within a particular class in the application.” *In re Aquamar, Inc.*, No. 85861533, 2015 WL 4269973, at *4 n.5 (TTAB 2015); *see also Gen. Mills, Inc. v. Fage Dairy Processing Indus. S.A.*, No. 91118482, 2011 WL 6001095, at *1 n.1 (TTAB 2011), *judgment set aside on other grounds*, 2014 WL 343267 (TTAB 2014) (“likelihood of confusion will be found as to the entire class if there is likely to be confusion with respect to any item that comes within the identification of goods in that class”).

As noted above, the services in the subject application are:

3D printing of firearm display stands and wristwatch display stands for others; 3D printing services of firearm display stands and wristwatch display stands for others; Additive manufacturing of firearm display stands and wristwatch display stands for others; Machine shop services, namely, machining parts for others; Custom 3D printing of firearm display stands and wristwatch display stands; Custom 3D printing of firearm display stands and wristwatch display stands for others; Custom additive manufacturing of firearm display stands and wristwatch

display stands; Custom additive manufacturing of firearm display stands and wristwatch display stands for others, and the services in the cited registration include: “additive manufacturing for others,” “custom additive manufacturing,” and “custom additive manufacturing for others.”¹⁰ Registrant’s recited services – “additive manufacturing for others,” “custom additive manufacturing,” and “custom additive manufacturing for others” – subsume the following narrower services identified in the application: “additive manufacturing of firearm display stands and wristwatch display stands for others,” “custom additive manufacturing of firearm display stands and wristwatch display stands,” and “custom additive manufacturing of firearm display stands and wristwatch display stands for others.” The Examining Attorney also submitted the MERRIAM-WEBSTER definition of “additive manufacturing,” which identifies “3D printing” as an equivalent term.¹¹ Consequently, Registrant’s additive manufacturing services listed above also encompass Applicant’s narrower 3D-printing service identifications: “3D printing of firearm display stands and wristwatch display stands for others,” “3D printing services of firearm display stands and wristwatch display stands for others,” “custom 3D printing of firearm display stands and wristwatch display stands,” and

¹⁰ In his brief, the Examining Attorney identifies an outdated recitation of services. Examining Attorney’s Br., 10 TTABVUE 6. Applicant amended the recitation of services in its April 8, 2025 Response to Non-Final Office Action (TSDR at 2, 3, 17). We have considered the amended recitations of services in this decision.

¹¹ Examining Attorney’s Br., 10 TTABVUE 18 (screenshot from merriam-webster.com). The Board may take judicial notice of dictionary definitions, *Univ. of Notre Dame du Lac v. J.C. Gourmet Food Imp. Co.*, No. 91061847, 1982 WL 52012, at *3 (TTAB 1982), *aff’d*, 703 F.2d 1372 (Fed. Cir. 1983), including online dictionaries that exist in printed format or have regular fixed editions. *In re Red Bull GmbH*, No. 75788830, 2006 WL 936983, at *3 (TTAB 2006).

“custom 3D printing of firearm display stands and wristwatch display stands for others.”

When an application’s identified services are fully encompassed by the registrant’s services, they are considered legally identical. *See In re Medline Indus., Inc.*, No. 87680078, 2020 WL 1485709, at *5 (TTAB 2020) (goods legally identical in part where “gloves for medical use” and “protective gloves for medical use” encompass “medical examination gloves”); *In re Info. Builders Inc.*, No. 87753964, 2020 WL 2094122, at *4 (TTAB 2020) (finding services legally identical in part where registrant’s services were encompassed by applicant’s services).¹²

Based on the foregoing evidence and discussion, we find that Applicant’s and Registrant’s services are in-part legally identical.

Turning to the trade channels, because Applicant’s services are in-part legally identical to the services in the cited registration, and there are no restrictions in the respective identifications regarding trade channels or classes of consumers, we must presume that the channels of trade are the same for such services. *See In re Fat Boys Water Sports LLC*, No. 86490930, 2016 WL 3915986, at *10 (TTAB 2016) (“Because the goods at issue are legally identical, we must presume that the goods of Applicant and Registrant move in the same channels of trade and are offered to the same classes of consumers.”); *see also In re Viterra Inc.*, 671 F.3d 1358, 1362 (Fed. Cir. 2012)

¹² Because we have found the services to be legally identical on the face of the identifications, we need not consider the Examining Attorney’s evidence of relatedness. *See Examining Attorney’s Br.*, 10 TTABVUE 6-7 (citing February 6, 2025 Non-Final Final Office Action, identifying ten third-party registrations as evidence that the same entity has registered a single mark for both Applicant’s and Registrant’s respective services).

(finding Board entitled to rely on this legal presumption in determining likelihood of confusion).

Applicant argues that its services are different than Registrant's services because "Applicant's services focus specifically on 3D printing and custom additive manufacturing of firearm and wristwatch display stands, primarily sold to retail consumers and firearm/wristwatch manufacturers[,]" whereas "Registrant's services encompass manufacturing in the automotive, aerospace, and medical industries, including aircraft production, medical devices, prosthetics and mechanical components."¹³

Applicant's arguments are unpersuasive. As we have explained in innumerable decisions, the Board may not consider arguments "about how the parties' **actual** goods, services, customers, trade channels, and conditions of sale are narrower or different from the goods and services identified in the applications and registrations." *In re FCA US LLC*, No. 85650654, 2018 WL 1756431, at *4 n.18 (TTAB 2018) (emphasis in italics in original; in bold here); *see also, e.g., i.am.symbolic*, 866 F.3d at 1327 ("[T]he Board properly declined to import restrictions into the identification of goods based on alleged real-world conditions."). It is the manner in which Applicant and Registrant have identified their services in their respective identifications that is controlling. *See Nat'l Football League v. Jasper Alliance Corp.*, No. 91077966, 1990 WL 354523, at *4 & n.5 (TTAB 1990).

¹³ Applicant's Br., 8 TTABVUE 10.

Although Applicant's services are limited to those provided in connection with "firearm display stands and wristwatch display stands," Registrant's services – "additive manufacturing for others," "custom additive manufacturing," and "custom additive manufacturing for others" – are broad and industry-neutral; they are not limited to the "automotive, aerospace, and medical industries," as Applicant contends. Because Registrant's identifications contain no restrictions on trade channels or classes of purchasers, we must presume they encompass all normal channels of trade and all ordinary purchasers for such services. *See, e.g., Packard Press, Inc. v. Hewlett-Packard Co.*, 227 F.3d 1352, 1361 (Fed. Cir. 2020) (goods or services in an unrestricted application or registration are presumed to travel in all normal channels of trade to all prospective purchasers for the relevant goods or services); *Nike, Inc. v. WNBA Enters., LLC*, No. 91160755, 2007 WL 763166, at *7 (TTAB 2007) ("Absent any restrictions in the respective applications and registrations, we must presume that applicant's apparel and bags and opposer's apparel are sold through all normal channels of trade for those goods, including all the usual retail outlets.").

The Examining Attorney has demonstrated that Applicant's and Registrant's services are in-part legally identical, and we presume that the trade channels and classes of consumers are the same for the identical services. Accordingly, the second and third *DuPont* factors favor a likelihood of confusion.

B. The Marks

We turn now to the first *DuPont* factor, which involves an analysis of the similarity or dissimilarity of the marks in their entireties as to appearance, sound, connotation, and commercial impression. *Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondée En 1772*, 396 F.3d 1369, 1371 (Fed. Cir. 2005); *see also Stone Lion Cap. Partners, L.P. v. Lion Cap. LLP*, 746 F.3d 1317, 1319 (Fed. Cir. 2014). “Similarity in any one of these elements may be sufficient to find the marks confusingly similar.” *In re Inn at St. John’s, LLC*, No. 87075988, 2018 WL 2734893, at *5 (TTAB 2018) (quoting *In re Davia*, No. 85497617, 2014 WL 2531200, at *2 (TTAB 2014)), *aff’d mem.*, 777 F. App’x 516 (Fed. Cir. 2019); *accord Krim-Ko Corp. v. Coca-Cola Bottling Co.*, 390 F.2d 728, 732 (CCPA 1968) (“It is sufficient if the similarity in either form, spelling or sound alone is likely to cause confusion.”) (citation omitted).

“Similarity is not a binary factor but is a matter of degree.” *In re St. Helena Hosp.*, 774 F.3d 747, 752 (Fed. Cir. 2014) (quoting *In re Coors Brewing Co.*, 343 F.3d 1340, 1344 (Fed. Cir. 2003)). The proper test regarding similarity “is not a side-by-side comparison of the marks, but instead whether the marks are sufficiently similar in terms of their commercial impression such that persons who encounter the marks would be likely to assume a connection between the parties.” *Cai v. Diamond Hong, Inc.*, 901 F.3d 1367, 1373 (Fed. Cir. 2018) (quoting *Coach Servs.*, 668 F.3d at 1368). “The focus is on the recollection of the average purchaser, who normally retains a

general rather than a specific impression of trademarks.” *In re St. Julian Wine Co.*, No. 87834973, 2020 WL 2788005, at *6 (TTAB 2020).

Our analysis cannot be predicated on dissecting the marks into their various components; that is, our finding must be based on the entire marks, not just part of the marks. *In re Nat’l Data Corp.*, 753 F.2d 1056, 1058 (Fed. Cir. 1985). “No element of a mark is ignored simply because it is less dominant, or would not have trademark significance if used alone.” *In re Electrolyte Labs. Inc.*, 929 F.2d 645, 647 (Fed. Cir. 1990) (citing *Spice Islands, Inc. v. Frank Tea & Spice Co.*, 505 F.2d 1293 (CCPA 1974)). Nonetheless, “in articulating reasons for reaching a conclusion on the issue of confusion, there is nothing improper in stating that, for rational reasons, more or less weight has been given to a particular feature of a mark, provided the ultimate conclusion rests on consideration of the marks in their entirety.” *Detroit Athletic*, 903 F.3d at 1305 (quoting *Nat’l Data*, 753 F.2d at 1058).

Where the services are in-part identical, as is the case here, the degree of similarity between the marks necessary to support a determination that confusion is likely declines. *Sunkist Growers, Inc. v. Intrastate Distribs., Inc.*, 144 F.4th 1376, 1379 (Fed. Cir. 2025) (quoting *Coach Servs.*, 668 F.3d at 1368) (“[I]f the parties’ goods are closely related, a lesser degree of similarity between the marks may be sufficient to give rise to a likelihood of confusion.”).

With these principles in mind, we compare Applicant’s standard-character mark HALO MACHINE with the cited standard-character mark HALO.

Applicant argues that confusion is not likely between its mark and the cited mark because (1) “Applicant’s mark includes the additional, distinctive word ‘MACHINE’, forming a unitary phrase with a different connotation and overall commercial impression” than the mark HALO alone; (2) Registrant uses its mark HALO as an acronym; and (3) “[t]he term ‘Machine’, in ‘Halo Machine’ evokes the image of a machine shop or manufacturing workshop, similar in commercial impression to trade names like Woodworking Co., Collision Repair, or Veterinary Supply.”¹⁴

Applicant’s arguments are again not persuasive. Applicant’s mark and the cited mark are similar in sound and appearance because they share the identical lead word HALO, and the cited mark contains no additional wording. *See Sage Therapeutics, Inc. v. Sageforth Psych. Servs., LLC*, No. 91270181, 2024 WL 1638376, at *6 (TTAB 2024) (“The marks are visually similar, as both begin with the word ‘sage.’ ... The marks are also similar in sound, as the first and dominant “sage” element of each mark will sound identical.”). While there is no rule that a likelihood of confusion is always present where one mark encompasses another, the fact that Registrant’s mark is subsumed entirely within Applicant’s mark increases the similarity of the two marks. Likelihood of confusion often has been found where the entirety of one mark is incorporated within another. *See e.g., Charger Ventures*, 64 F.4th at 1381-82 (SPARK LIVING and SPARK confusingly similar); *In re Mighty Leaf Tea*, 601 F.3d 1342, 1347-48 (Fed. Cir. 2010) (ML and ML MARK LEES confusingly similar); *Coca-Cola Bottling Co. v. Joseph E. Seagram and Sons, Inc.*, 526 F.2d 556, 557 (CCPA

¹⁴ Applicant’s Br., 8 TTABVUE 7-8.

1975) (BENGAL and BENGAL LANCER confusingly similar); *In re West Point-Pepperell, Inc.*, 468 F.2d 200, 201 (CCPA 1972) (WEST POINT PEPPERELL and WEST POINT confusingly similar); *In re Integrated Embedded*, No. 86140341, 2016 WL 7368696, at *10-11 (TTAB 2016) (BARR and BARR GROUP confusingly similar); *Hunter Indus., Inc. v. Toro Corp.*, No. 91203612, 2014 WL 1649332, at *11 (TTAB 2014) (PRECISION and PRECISION DISTRIBUTION CONTROL confusingly similar).

Furthermore, “HALO,” as the first element of Applicant’s mark, is “most likely to be impressed upon the mind of a purchaser and remembered” due to its position as the first word in Applicant’s mark. *Presto Prods., Inc. v. Nice-Pak Prods. Inc.*, No. 91074797, 1988 WL 252340, at *3 (TTAB 1988) (“it is often the first part of a mark which is most likely to be impressed upon the mind of a purchaser and remembered”); *see also Century 21 Real Estate Corp. v. Century Life of Am.*, 970 F.2d 874, 876 (Fed. Cir. 1992) (finding similarity between CENTURY 21 and CENTURY LIFE OF AMERICA in part because “consumers must first notice th[e] identical lead word”). Applicant’s concession “that the term ‘Machine’ may be considered descriptive in connection with manufacturing and machining services” diminishes the distinctiveness of that element and reinforces that “HALO” is the dominant element of Applicant’s mark, which reduce the weight of the word “MACHINE” in the likelihood-of-confusion analysis.¹⁵ *See Cunningham v. Laser Golf Corp.*, 222 F.3d 943,

¹⁵ June 12, 2025 Request for Reconsideration, TSDR at 17. *See also* Applicant’s Br., 8 TTABVUE 8 (“The term ‘Machine’, in ‘Halo Machine’ evokes the image of a machine shop or

947 (Fed. Cir. 2000) (“Regarding descriptive terms, this court has noted that the ‘descriptive component of a mark may be given little weight in reaching a conclusion on likelihood of confusion.’”) (quoting *Nat’l Data*, 753 F.2d at 1060).

While the marks are not identical in sound and appearance, they are similar in sound and appearance in that they share the same leading word “HALO” (and the cited mark contains no other wording).

The marks likewise present similar commercial impressions and connotations. As discussed, the services recited in Applicant’s application and the cited registration are, in part, legally identical. In that context, the shared lead term “HALO” in Applicant’s mark and the sole term in the cited mark produce a comparable commercial impression: the concept of “a circle of light around something.” As for connotation, we have no reason to believe that the shared word would have one meaning when used for Registrant’s services and another when used for Applicant’s legally identical services. *In re Embiid*, No. 88202890, 2021 WL 2285576, at *9 (TTAB 2021) (“[T]here is no evidence here, or other reason to find, that the mark TRUST THE PROCESS has one meaning when used with shoes, and a second and different meaning when used with shirts and sweatshirts, based on the nature of the respective goods.”). In the context of those services, Applicant’s addition of the descriptive term “MACHINE” does not materially alter the marks’ shared commercial impression.

manufacturing workshop, similar in commercial impression to trade names like Woodworking Co., Collision Repair, or Veterinary Supply.”).

Applicant asserts that Registrant uses HALO as an acronym for “Hollow Array Lattice Optimization,” as demonstrated by Registrant’s specimen of use.¹⁶ The cited mark, however, is not identified as an acronym on the face of the drawing in the registration. The letters in “HALO” are not separated by periods, and Registrant does not include the words “Hollow Array Lattice Optimization” in the mark. *In re Max Capital Group Ltd.*, No. 77186166, 2010 WL 22358, at *5 (TTAB 2010) (“With respect to the connotation of the cited mark, whether or not applicant is correct in how the mark was derived, and there is no evidence to show this, the mark itself would be perceived as the word MAX, rather than as an abbreviation for applicant’s company name, because it is not depicted with periods or anything that would indicate that MAX stands for the initials of ‘Mutual’ and ‘Aid’ and an abbreviation for ‘Exchange.’”).

Consistent with established precedent, the relevant comparison is between the marks as they are shown in the application and registration drawings, not based on extrinsic uses in commerce. *Cunningham*, 222 F.3d at 949-50 (“Cunningham also argues that there was no analysis of the ‘evidence of use of the mark on the goods as another relevant factor.’ ... Registrations with typed drawings are not limited to any particular rendition of the mark and, in particular, are not limited to the mark as it is used in commerce. ... Therefore, it is irrelevant that Cunningham has a particular display for his mark in commerce, and the Board was correct to ignore those features.”). There is no evidence in the record that “HALO” is a generally known

¹⁶ Applicant’s Br., 8 TTABVUE 7 (citing April 8, 2025 Response to Office Action, TSDR at 18) (screenshot from Registrant’s website, tetracells.com/aerospace).

acronym in the context of the involved services; nor is there evidence that consumers would understand the word “HALO” to mean anything beyond its common dictionary meaning.

When we consider the marks in their entireties, we find them similar in appearance, sound, meaning, and commercial impression due to the shared word “HALO.” See *In re I-Coat Co., LLC*, No. 86802467, 2018 WL 2753196, at *8 (TTAB 2018) (“common identical term results in marks that ... are similar in sound, appearance, meaning, and commercial impression.”); *Tao Licensing, LLC v. Bender Consulting Ltd.*, No. 92057132, 2017 WL 6336243, at *17-18 (TTAB 2017) (“dominant portion of [r]espondent’s mark is identical to [p]etitioner’s mark ... result[ing] in a similar look, sound, meaning, and commercial impression”). Any dissimilarities in Applicant’s mark are outweighed by the strong similarities created by the shared word (and only word in the cited mark), HALO.

Accordingly, the first *DuPont* factor favors a likelihood of confusion.

C. Actual Confusion or the Lack Thereof

Under the eighth *DuPont* factor, we consider “[t]he length of time during and conditions under which there has been concurrent use without evidence of actual confusion.” *DuPont*, 476 F.2d at 1361.

Applicant contends that, for “[o]ver nearly five years of concurrent use, there has been no evidence of actual consumer confusion between the parties’ marks or services.”¹⁷

¹⁷ Applicant’s Br., 8 TTABVUE 12. Applicant contends that it “has used the mark HALO MACHINE in commerce continuously since November 30, 2019, predating the cited

Applicant’s argument regarding the absence of actual confusion is misplaced. To begin, “a showing of actual confusion is not necessary to establish a likelihood of confusion.” *Herbko Int’l*, 308 F.3d at 1165 (citing *Giant Food, Inc. v. Nation’s Foodservice, Inc.*, 710 F.2d 1565, 1571 (Fed. Cir. 1983)). Moreover, “uncorroborated statements of no known instances of actual confusion are of little evidentiary value.” *Majestic Distilling*, 315 F.3d at 1317. We also have no evidence of whether the extent and circumstances of Applicant’s and Registrant’s uses of their respective marks were such as to give rise to meaningful opportunities for actual confusion to occur. *In re Kangaroos U.S.A.*, No. 319021, 1984 WL 63596, at *2 (TTAB 1984); *see also Guild Mortg.*, 912 F.3d at 1380-81 (suggesting that “evidence of concurrent use of the two marks for a particularly long period of time—over 40 years—in which the two businesses operated in the same geographic market—southern California—without any evidence of actual confusion” may be probative under the eighth *DuPont* factor).

In view thereof, the eighth *DuPont* factor is neutral.

D. The Strength or Weakness of the Cited Mark

In our final weighing of the factors, the “similarity of the marks” factor will support a conclusion that confusion is likely. We must, however, consider how heavily. The relevant factors sometimes interact with one another, and a factor that may come into play and, when supported, impacts the weight given to the similarity

Registrant’s claimed first use date of August 15, 2020.” Applicant’s Br., 8 TTABVUE 12. Inasmuch as priority of use is not an issue in *ex parte* proceedings, the issue of whether Applicant used its mark before Registrant is irrelevant to our decision. *In re Wilson*, No. 75285881, 2001 WL 58395, at *4 n.9 (TTAB 2001).

of the marks, is the sixth *Dupont* factor: “[t]he number and nature of similar marks in use on similar goods [or services].” *Dupont*, 476 F.2d at 1361. The sixth *DuPont* factor allows an applicant in an ex parte appeal to contract the scope of protection of a cited mark by adducing evidence of conceptual and commercial weakness. *Id.*

“[T]he strength of a mark is not a binary factor” and instead “varies along a spectrum from very strong to very weak.” *Juice Generation, Inc. v. GS Enters. LLC*, 794 F.3d 1334, 1340 (Fed. Cir. 2015) (internal citations omitted). “The weaker [the cited] mark, the closer an applicant’s mark can come without causing a likelihood of confusion and thereby invading what amounts to its comparatively narrower range of protection.” *Id.* at 1338.

In determining the strength of a cited mark in the course of an ex parte appeal, we consider its inherent or conceptual strength based on the nature of the mark itself. *See In re Chippendales USA, Inc.*, 622 F.3d 1346, 1353-54 (Fed. Cir. 2010) (“A mark’s strength is measured both by its conceptual strength . . . and its marketplace strength . . .”). Conceptual or inherent strength is a measure of a mark’s distinctiveness. *Id.* Distinctiveness is “often classified in categories of generally increasing distinctiveness[:] . . . (1) generic; (2) descriptive; (3) suggestive; (4) arbitrary; or (5) fanciful.” *Two Pesos, Inc. v. Taco Cabana, Inc.*, 505 U.S. 763, 768 (1992). “Marks that are descriptive or highly suggestive are entitled to a narrower scope of protection, i.e., are less likely to generate confusion over source identification, than their more fanciful counterparts.” *Spireon, Inc. v. Flex Ltd.*, 71 F.4th 1355, 1362 (Fed. Cir. 2023) (quoting *Juice Generation*, 794 F.3d at 1339); *see also Jack Wolfskin*

Ausrustung Fur Draussen GmbH & Co. KGAA v. New Millennium Sports, S.L.U., 797 F.3d 1363, 1373 (Fed. Cir. 2015).

Here, the cited mark issued on the Principal Register without a claim of acquired distinctiveness under Section 2(f) of the Trademark Act, 15 U.S.C. § 1052(f). We must presume, therefore, that the cited mark is inherently distinctive for Registrant's services. *See Sock It to Me v. Fan*, No. 91230554, 2020 WL 3027605, at *13 (TTAB 2020) (SOCK IT TO ME for socks "taken as a whole, is inherently distinctive, although its strength is somewhat limited by its first word, SOCK, which is generic for socks."); *Tea Bd. of India v. Republic of Tea, Inc.*, No. 91118587, 2006 WL 2460188, at *21 (TTAB 2006) ("A mark that is registered on the Principal Register is entitled to all Section 7(b) presumptions including the presumption that the mark is distinctive and moreover, in the absence of a Section 2(f) claim in the registration, that the mark is inherently distinctive for the goods."). Nonetheless, we may consider whether an inherently distinctive mark is "weak as a source indicator" in the course of a *DuPont* analysis. *Fat Boys Water Sports*, 2016 WL 3915986, at *9. To that end, third-party registrations may be relevant, in the manner of dictionary definitions, "to prove that some segment of the [mark] has a normally understood and well-recognized descriptive or suggestive meaning, leading to the conclusion that that segment is relatively weak." *Juice Generation*, 794 F.3d at 1339 (citation omitted); *see also Spireon*, 71 F.4th at 1363; *Jack Wolfskin*, 797 F.3d at 1373-74; *Tektronix, Inc. v. Daktronics, Inc.*, 534 F.2d 915, 917 (CCPA 1976) (even if "there is no evidence of

actual use” of “third party registrations,” such registrations “may be given some weight to show the meaning of a mark in the same way that dictionaries are used”).

Applicant identifies the following three third-party registrations for HALO-formative marks for services in Class 40:

- Registration No. 6822476 on the Principal Register for the standard-character mark PROJECT HALO BREWING (“BREWING” disclaimed) for “Brewing of beer; Brewing services; Beer brewing for others; Beer making and brewing services for others; Providing a website featuring news and information in the field of craft brewing”;¹⁸
- Registration No. 5439274 on the Principal Register for the standard-character mark HALO INDUCTION TECHNOLOGY (“INDUCTION TECHNOLOGY” disclaimed) for “Metal fabrication for others and metal treatment, namely, fabrication and treatment of metal tubing and metal coil tubing”;¹⁹ and
- Registration No. 7976888 on the Principal Register for the standard-character mark HALO GLASS RECYCLING (“GLASS RECYCLING” disclaimed) for “Recycling of beverage bottles.”²⁰

Applicant argues that these registrations demonstrate that “term ‘HALO’ is not exclusive to a single source or industry, even within Class 040” and that “‘HALO’ is

¹⁸ June 12, 2025 Request for Reconsideration, TSDR at 19.

¹⁹ *Id.*

²⁰ *Id.* at 20. In his brief, the Examining Attorney argues that we should not consider the HALO GLASS RECYCLING mark because the underlying application has been abandoned. Examining Attorney’s Br., 10 TTABVUE 12. In its reply brief, Applicant contends that “‘HALO GLASS RECYCLING’ was originally filed in Class 021 & 040, under Serial No. 90727623 and later underwent a Request to Divide on April 22, 2025. The relevant Class 040 portion was assigned a new serial number (Serial No. 90981576) on September 12, 2025, and proceeded to registration on October 7, 2025 as U.S. Registration No. 7976888.” Applicant’s Reply Br., 11 TTABVUE 5. In view of its active status, we have considered the HALO GLASS RECYCLING mark.

capable of coexistence across various manufacturing fields when the industries, consumers, and trade channels are distinct.”²¹

We do not find these third-party registrations probative because there is no evidence in the record to suggest that the services identified therein are similar to the identical identified services here, and they are not clearly related on their face. *See Omaha Steaks Int’l, Inc. v. Greater Omaha Packing Co.*, 908 F.3d 1315, 1325 (Fed. Cir. 2018) (where goods are identical, it is error to rely on third-party evidence of similar marks for dissimilar goods, as Board must focus “on goods shown to be similar”); *i.am.symbolic*, 866 F.3d at 1328-29 (disregarding third-party registrations for other types of goods where the proffering party had neither proven nor explained that the goods were related to the goods in the cited registration); *Made in Nature, LLC v. Pharmavite LLC*, No. 91223352, 2022 WL 2188890, at *13 (TTAB 2022) (third-party registrations of marks for unrelated goods “have little or no probative value in showing the conceptual weakness of the terms” in Opposer’s marks). The fact that these registrations cover services classified in International Class 40 alone is insufficient to find them similar for purposes of demonstrating the relatedness of the services. *See Omaha Steaks*, 908 F.3d at 1325 (products, such as “popcorn,” “wine,” “oriental foods,” and “alcoholic beverages” “bear no relationship to meat or meat-based products” and therefore “are not ‘similar’ to meat products”).

²¹ Applicant’s Br., 8 TTABVUE 11; *see also* Applicant’s Reply Br., 11 TTABVUE 6 (“Third party registrations can be relevant to prove that a mark or a portion of a mark is weak and entitled to a limited scope of protection.”) (citing *Juice Generation, Inc. v. GS Enters. LLC*, 794 F.3d 1334 (Fed. Cir. 2015)).

Moreover, the volume of third-party registrations is underwhelming. Three third-party registrations are a very small number compared to the number of marks in cases that have found weaknesses based on extensive registration of a term. *See, e.g., Inn at St. John's*, 2018 WL 2734893, at *4 (four third-party registrations and no third-party uses were “a far cry from the large quantum of evidence of third-party use and third-party registrations that was held to be significant” in the Federal Circuit’s decisions in *Jack Wolfskin* and *Juice Generation*); *see also Sabhnani v. Mirage Brands, LLC*, No. 92068086, 2021 WL 6072822, at *13 (TTAB 2021) (discounting the probative value of six third-party registrations on conceptual weakness).

In sum, we find Applicant’s third-party registration evidence insufficient to demonstrate conceptual weakness of the cited mark for Registrant’s services. We find that the cited mark is inherently distinctive for the relevant services and has not been shown to be conceptually weak. We therefore treat the sixth *DuPont* factor as neutral in our likelihood of confusion analysis, and accord the cited mark “the normal scope of protection to which [an] inherently distinctive mark[] [is] entitled.” *Info. Builders*, 2020 WL 2094122, at *10.

III. Conclusion – Summary of the *DuPont* Factors

We have carefully considered all of the evidence and arguments. The services of Applicant’s application and the cited registration are in-part legally identical, and the trade channels for the legally identical services are presumed to be the same. Accordingly, the second and third *DuPont* factors favor a likelihood of confusion. Applicant’s mark and the cited mark are similar in appearance, sound, meaning, and

commercial impression. The first *DuPont* factor therefore favors a likelihood of confusion. The sixth and eighth factors are neutral in our likelihood of confusion analysis. No *DuPont* factor weighs against a likelihood of confusion. Accordingly, we conclude that confusion is likely between Applicant's mark and the cited mark.

Decision: The Section 2(d) refusal to register Applicant's mark is affirmed based on likelihood of confusion with the cited mark.²²

²² We need not reach the Section 2(e)(1) refusal because even assuming that Applicant's mark, as a whole, is not merely descriptive, it is ineligible for registration because it is likely to cause confusion based on the cited mark, and we need only decide the issue(s) necessary for full resolution of the appeal. *See, e.g., In re Princeton Equity Grp. LLC*, No. 97397212, 2025 WL 1638891, at *1 (TTAB 2025) (affirming refusal under Section 2(e)(2) and not reaching Section 2(d) refusal); *In re Mueller Sports Med., Inc.*, No. 87209946, 2018 WL 2277503, at *7 (TTAB 2018) ("Having found that Applicant's mark is merely descriptive of a feature or characteristic of the goods, we need not reach the alternative ground for refusal that Applicant's mark is deceptively misdescriptive.").